

**IN THE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

PERFERIO McCLINE,
Plaintiff,

v.

**OFFICER J. FOLEY, STAR #3966,
OTHER UNKNOWN CHICAGO POLICE
OFFICERS, AND THE CITY OF
CHICAGO,
Defendants.**

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)
)
) **No. 08 C 4282**
)
)
) **Judge Kendall Presiding**
)
) **Magistrate Judge Brown**
)
)

AMENDED COMPLAINT

COUNT I - ILLEGAL ARREST

Plaintiff, through his attorneys, Thomas Peters and Kevin Peters, states:

JURISDICTION AND VENUE

1. This Court has jurisdiction based on 28 U.S.C. §§1331 and 1343(a) because the case raises federal constitutional issues.
2. The Court has supplementary jurisdiction over substantially related state claims based on 28 U.S.C. 1367(a).
3. This is an appropriate venue because all of the alleged acts occurred within the Northern District of Illinois and all of the parties reside within the Northern District of Illinois.

4. This action is brought pursuant to 42 U.S.C. §1983 for violations of Plaintiff's constitutional rights under the Fourth Amendment as incorporated and applied to state governments through the Fourteenth Amendment to the United States Constitution.

PARTIES

5. Plaintiff is a citizen of the United States and resident of Chicago, Illinois.

6. Defendants, Foley and Unknown Chicago Police officers, were on duty and acting under color of state law at all times relevant to this Complaint.

7. The City of Chicago is a municipality organized under the laws of the State of Illinois and it is the employer of Defendants Foley and Unknown Chicago Police officers.

THE FOURTH AMENDMENT VIOLATION

8. On November 25, 2006, Plaintiff was arrested on an arrest warrant dated December 1, 2004.

9. The arrest warrant for Plaintiff dated December 1, 2004, listed his residence as 6216 S. Rhodes Ave., 2nd Floor, Chicago, Illinois.

10. The Defendants did not witness the Plaintiff violate any law on August 4, 2004, through November 3, 2004.

11. Plaintiff has continuously resided at 6216 S. Rhodes Ave., 2nd Floor, Chicago, IL, from October, 2004 to present.

12. Defendant Foley and Unknown Chicago Police officers gave false and misleading information to a Cook County Circuit Court judge in order to obtain the

December 1, 2004, arrest warrant for the plaintiff.

13. The false and misleading information defendant Foley and Unknown Chicago Police officers supplied to the judge in order to get an arrest warrant for the plaintiff included but was not limited to alleging the plaintiff engaged in a conspiracy to sell narcotics on or about August 4, 2004, through November 3, 2004, at or near Michigan Ave. to Prairie St. in the 4700 to 4800 South Block of Chicago, IL.

14. Further false and misleading information supplied by defendant Foley and Unknown Chicago Police officers included but was not limited to the existence of a video tape demonstrating the plaintiff engaged in the sale of narcotics.

15. Plaintiff was charged with 11 other individuals in case number 05 CR 308.

16. Plaintiff was in custody unable to make bond from November 25, 2006, to December 23, 2006, on case number 05 CR 308.

17. On July 3, 2007, on the motion of the Cook County State's Attorney's Office the charges against the plaintiff in case number 05 CR 308 were dismissed.

18. The Defendants wrote false and misleading police reports alleging that the Plaintiff was engaged in a conspiracy to sell narcotics in August, 2004, through November 3, 2004.

19. Ultimately all charges in case number 05 CR 308 were dismissed.

20. As a direct and proximate result of the unconstitutional conduct of the Defendant officers, Plaintiff suffered actual harm.

21. Plaintiff is innocent of all charges contained in the indictment of 05 CR 308.

Wherefore, Plaintiff prays this Honorable Court award him actual and punitive damages as well as costs and reasonable attorneys fees against the defendants.

COUNT II - STATUTORY INDEMNIFICATION

1-20. Plaintiff re-alleges paragraphs 1-20 of Count I as paragraphs 1-20 of Count II.

21. At all relevant times 745 ILCS 10/9-102 was in full force and effect.

22. The defendant officers were acting under color of state law and as employees of the City of Chicago.

WHEREFORE, Plaintiff prays the Court will award him actual damages and costs against the City of Chicago.

Respectfully Submitted,

S/ Kevin Peters
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